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DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-802]

Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Final Determination of No Shipments of Antidumping Duty Administrative Review; 2018-2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that no companies under review qualify for a separate rate, and that these companies are therefore considered part of the Vietnam-wide entity. The period of review (POR) is February 1, 2018 through January 31, 2019.

DATES: Applicable [Insert Date of Publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6905.

SUPPLEMENTARY INFORMATION:

Background

On September 12, 2019, Commerce published in the *Federal Register* the *Preliminary Results*¹ of the administrative review of the antidumping duty order on certain frozen warmwater shrimp from the Socialist Republic of Vietnam (Vietnam). This review covers 73 companies preliminarily determined to be part of the Vietnam-wide entity and three companies preliminarily determined to have no reviewable transactions during the POR. We invited parties to comment on the *Preliminary Results*.² No interested party submitted case briefs in the instant review. Commerce conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise subject to the order is certain frozen warmwater shrimp. The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. Although the HTSUS numbers are provided for convenience and for customs purposes, the written product description remains dispositive.³

Final Determination of No Shipments

In the *Preliminary Results*, Commerce found that (1) BIM Foods Joint Stock Company, (2) Camranh Seafoods Co., Ltd, and (3) Vinh Hoan Corp.⁴ did not have any reviewable transactions during the POR. As we have not received any information to contradict this preliminary finding, Commerce determines that these three companies did not have any

¹ See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results, Partial Rescission, and Preliminary Determination of No Shipments, of Antidumping Duty Administrative Review; 2018–2019*, 84 FR 48109 (September 12, 2019) (*Preliminary Results*).

² *Id.*

³ For a complete description of the scope of the order, see Appendix I.

⁴ See *Preliminary Results*, 84 FR at 48110.

reviewable entries of subject merchandise during the POR, and will issue appropriate instructions that are consistent with our “automatic assessment” clarification, for these final results.

Final Results of the Review

As no parties submitted comments regarding the *Preliminary Results*, Commerce made no changes to its determinations for the final results of this review. For these final results, Commerce continues to find that the four selected mandatory respondents⁵ did not respond to the questionnaire; thus, they have not established eligibility for a separate rate. Further, Commerce continues to find that 73 companies under review, including the four mandatory respondents, are part of the Vietnam-wide entity, and are thus subject to the Vietnam-wide entity rate of 25.76 percent (*see* Appendix II).

Disclosure and Public Comment

Normally, Commerce will disclose the calculations used in its analysis to parties in this review within five days of the date of publication of the notice of final results in the *Federal Register*, in accordance with 19 CFR 351.224(b). However, here Commerce only applied the Vietnam-wide rate, established in the underlying investigation, to the 73 companies identified in Appendix II.⁶ Thus, there are no calculations to disclose.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on

⁵ The four companies selected for individual examination are: 1) Cadovimex Seafood Import-Export & Processing Joint-Stock Company; 2) Phuong Nam Co., Ltd.; 3) New Generation Seafood Joint Stock Company; and 4) Viet Asia Foods Company Limited.

⁶ *See Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005, 71008 (December 8, 2004), and accompanying Issues and Decision Memorandum at Comments 6 and 10C (“we have applied a rate of 25.76 percent, a rate calculated in the initiation stage of the investigation from information provided in the petition...”).

all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

With regard to the companies identified in Appendix II as part of the Vietnam-wide entity, we will instruct CBP to apply an *ad valorem* assessment rate of 25.76 percent to all entries of subject merchandise during the POR which were exported by those companies. Additionally, consistent with Commerce's assessment practice in non-market economy (NME) cases, if Commerce determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the NME-wide rate.⁷

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from Vietnam entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) for all Vietnam exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the existing rate for the Vietnam-wide entity of 25.76 percent; (2) for previously investigated or reviewed Vietnam and non-Vietnam exporters, not listed in this notice, that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; and (3) for all non-Vietnam exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the

⁷ For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

Vietnam exporter that supplied that non-Vietnam exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: November 18, 2019.

Jeffrey I. Kessler,

Assistant Secretary

for Enforcement and Compliance.

Appendix I

Scope of the Order

The scope of the order includes certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,⁸ deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of the order, regardless of definitions in the Harmonized Tariff Schedule of the United States (“HTS”), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the *Penaeidae* family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, white-leg shrimp (*Penaeus vannamei*), banana prawn (*Penaeus merguensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

⁸ “Tails” in this context means the tail fan, which includes the telson and the uropods.

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of the order. In addition, food preparations, which are not “prepared meals,” that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of the order. Excluded from the scope are: 1) breaded shrimp and prawns (HTS subheading 1605.20.10.20); 2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; 3) fresh shrimp and prawns whether shell-on or peeled (HTS subheadings 0306.23.00.20 and 0306.23.00.40); 4) shrimp and prawns in prepared meals (HTS subheading 1605.20.05.10); 5) dried shrimp and prawns; 6) canned warmwater shrimp and prawns (HTS subheading 1605.20.10.40); and 7) certain battered shrimp. Battered shrimp is a shrimp-based product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a “dusting” layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and 10 percent of the product’s total weight after being dusted, but prior to being frozen; and (5) that is subjected to individually quick frozen (“IQF”) freezing immediately after application of the dusting layer. When dusted in accordance with the definition of dusting above, the battered shrimp product is also coated with a wet viscous layer containing egg and/or milk, and par-fried. The products covered by this order are currently classified under the following HTS subheadings: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. These HTS subheadings are provided for convenience and for customs purposes

only and are not dispositive, but rather the written description of the scope of this order is dispositive.⁹

⁹ On April 26, 2011, Commerce amended the order to include dusted shrimp, pursuant to the U.S. Court of International Trade (CIT) decision in *Ad Hoc Shrimp Trade Action Committee v. United States*, 703 F. Supp. 2d 1330 (CIT 2010) and the U.S. International Trade Commission (ITC) determination, which found the domestic like product to include dusted shrimp. *See Certain Frozen Warmwater Shrimp from Brazil, India, the People's Republic of China, Thailand, and the Socialist Republic of Vietnam: Amended Antidumping Duty Orders in Accordance with Final Court Decision*, 76 FR 23277 (April 26, 2011); *see also Ad Hoc Shrimp Trade Action Committee v. United States*, 703 F. Supp. 2d 1330 (CIT 2010) and *Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam* (Investigation Nos. 731-TA-1063, 1064, 1066-1068 (Review), USITC Publication 4221, March 2011).

Appendix II

Companies Subject to Review Determined to Be Part of the Vietnam-Wide Entity

1. A & CDN Foods Co., Ltd.
2. Amanda Seafood Co., Ltd.
3. An Huy B.T Co. Ltd.
4. Anh Koa Seafood
5. Anh Minh Quan Joint Stock Company
6. Asia Food Stuffs Import Export Co., Ltd.
7. B.O.P Company Limited
8. B.O.P. Limited Co.
9. Binh Dong Fisheries Joint Stock Company
10. Binh Thuan Import–Export Joint Stock Company (THAIMEX)
11. Ca Mau Agricultural Products and Foodstuff Imp-Exp Joint Stock Company (Agrimexco Camau)
12. Cadovimex Seafood Import-Export and Processing Joint Stock Company (“Cadovimex”)
Cadovimex Seafood Import-Export and Processing Joint Stock Company (Cadovimex)
Cai Doi Vam Seafood Import-Export Co. (“CADOVIMEX”)
13. Cholimex Food Joint Stock Company
14. CJ Cau Tre Foods Joint Stock Company
15. CJ Freshway (FIDES Food System Co., Ltd.)
16. Coastal Fisheries Development Corporation (“COFIDEC”)
17. Cty TNHH Anh Khoa Seafood
18. Danang Seaproducts Import-Export Corporation (SEADANANG)
19. Dong Do Profo., Ltd.
20. Dong Hai Seafood Limited Company
21. Dong Phuong Seafood Co., Ltd.
22. Duc Cuong Seafood Trading Co., Ltd.
23. Fine Foods Company (FFC)
Fine Foods Company (FFC) (Ca Mau Foods & Fishery Export Joint Stock Company)
24. Gallant Dachan Seafood Co., Ltd.
25. Gallant Ocean (Vietnam) Co., Ltd.
Gallant Ocean Viet Nam Co., Ltd.
26. Green Farms Joint Stock Company
Green Farms Seafood Joint Stock Company
Green Farms Seafoods Joint Stock Company
27. Ha Cat A International Co., Ltd.
28. Hanh An Trading Service Co., Ltd.
29. Hanoi Seaproducts Import & Export Joint Stock Corporation (Seaprodex Hanoi)
30. Hoa Trung Seafood Corporation (HSC)
31. Hong Ngoc Seafood Co., Ltd.
32. Hung Bang Co., Ltd.
33. HungHau Agricultural Joint Stock Company
34. Huynh Huong Seafood Processing
35. Huynh Huong Trading and Import-Export Joint Stock Company

36. JK Fish Co., Ltd.
37. Kaiyo Seafood Joint Stock Company
38. Khai Minh Trading Investment Corporation
39. Khanh Hoa Seafoods Exporting Company (KHASPEXCO)
40. Lam Son Import-Export Foodstuff Company Limited (Lamson Fimexco)
Lam Son Import-Export Foodstuffs Corporation
41. Long Toan Frozen Aquatic Products Joint Stock Company
42. Minh Bach Seafood Company (Minh Binh Seafood Foods Co., Ltd.)
Minh Bach Seafood Company Limited
43. Minh Cuong Seafood Import Export Processing Joint Stock Company (“MC Seafood”)
Minh Cuong Seafood Import-Export Processing (“MC Seafood”)
44. Minh Phu Seafood Corporation
45. Namcan Seaproducts Import Export Joint Stock Company (Seanamico)
46. New Generation Seafood Joint Stock Company
New Generation Seafood Joint Stock Company (“New Generation”)
47. New Wind Seafood Co., Ltd.
48. Nha Trang Fisheries Joint Stock Company
Nha Trang Fisheries Joint Stock Company (“Nha Trang Fisco”)
49. Nhat Duc Co., Ltd.
50. Nigico Co., Ltd.
51. Phu Cuong Jostoco Corp.
Phu Cuong Jostoco Seafood Corporation
52. Phu Minh Hung Seafood Joint Stock Company
53. Phuong Nam Foodstuff Corp.
Phuong Nam Foodstuff Corp., Ltd.
54. Quoc Ai Seafood Processing Import Export Co., Ltd.
55. Quoc Toan Seafood Processing Factory (Quoc Toan PTE)
56. Quy Nhon Frozen Seafoods Joint Stock Company
57. Saigon Aquatic Product Trading Joint Stock Company (APT Co.)
58. Saigon Food Joint Stock Company
59. Seafood Joint Stock Company No.4
60. South Ha Tinh Seaproducts Import-Export Joint Stock Company
61. Special Aquatic Products Joint Stock Company (SEASPIMEX VIETNAM)
62. T & P Seafood Company Limited
63. Tai Nguyen Seafood Co., Ltd.
64. Tan Phong Phu Seafood Co., Ltd. (“TPP Co., Ltd.”)
Tan Phong Phu Seafood Co., Ltd. (TPP Co. Ltd.)
65. Tan Thanh Loi Frozen Food Co., Ltd.
66. Thien Phu Export Seafood Processing Company Limited
67. Thinh Hung Co., Ltd.
68. Trang Corporation (Vietnam)
69. Trang Khan Seafood Co., Ltd.
70. Viet Asia Foods Co., Ltd.
71. Viet Nam Seaproducts – Joint Stock Company
72. Viet Phu Foods and Fish Corp.
73. Viet Shrimp Export Processing Joint Stock Company

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